

form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-249, 52 FR 5961, Feb. 27, 1987; T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF-435, 66 FR 5476, Jan. 19, 2001; T.D. ATF-443, 66 FR 13015, Mar. 2, 2001; T.D. TTB-44, 71 FR 16937, Apr. 4, 2006]

§ 22.22 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures*—(1) *Application.* A permittee, after receiving approval from the appropriate TTB officer, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the appropriate TTB officer. The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by appropriate TTB officer.* The appropriate TTB officer may approve the use of an alternate method or procedure if:

- (i) The applicant shows good cause for its use;
- (ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;
- (iii) It is not contrary to law; and
- (iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(3) *Exceptions.* The appropriate TTB officer will not authorize an alternate method or procedure relating to the giving of a bond.

(4) *Conditions of approval.* A permittee may not employ an alternate method or procedure until the appropriate TTB officer has approved its use. The per-

mittee shall, during the terms of the authorization of an alternate method or procedure, comply with the terms of the approved application.

(b) *Emergency variations from requirements*—(1) *Application.* When an emergency exists, a permittee may apply to the appropriate TTB officer for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The permittee shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval by appropriate TTB officer.* The appropriate TTB officer may approve an emergency variation from requirements if:

- (i) An emergency exists;
- (ii) The variation from the requirements is necessary;
- (iii) It will afford the same security and protection to the revenue as intended by the specific regulations;
- (iv) It will not hinder the effective administration of this part; and
- (v) It is not contrary to law.

(3) *Conditions of approval.* A permittee may not employ an emergency variation from the requirements until the appropriate TTB officer has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) *Automatic termination of approval.* If the permittee fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the permittee is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) *Withdrawal of approval.* The appropriate TTB officer may withdraw approval for an alternate method or procedure or an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the appropriate TTB officer finds that the revenue is jeopardized or the effective

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administration of this part is hindered by the approval.

(Approved by the Office of Management and Budget under control number 1512-0335)

(Act of August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805); sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-435, 66 FR 5476, Jan. 19, 2001]

§ 22.23 Allowance of claims.

The appropriate TTB officer is authorized to allow claims for losses of tax-free alcohol.

§ 22.24 Permits.

(a) The appropriate TTB officer shall issue permits on Form 5150.33 covering the withdrawal of tax-free alcohol by the United States or a Governmental agency as provided in § 22.172.

(b) The appropriate TTB officer shall issue the permit to withdraw and use tax-free alcohol, Form 5150.9 required under this part.

§ 22.25 Right of entry and examination.

An appropriate TTB officer may enter, during business hours or at any time operations are being conducted, any premises on which operations governed by this part are conducted to inspect the records required by this part to be kept on those premises. An appropriate TTB officer may also inspect and take samples of tax-free alcohol to which those records relate.

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985. Re-designated by T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]

§ 22.26 Detention of containers.

(a) *Summary detention.* An appropriate TTB officer may detain any container containing, or supposed to contain, alcohol when the appropriate TTB officer believes the alcohol was withdrawn, sold, transported, or used in violation of law of this part. The appropriate TTB officer shall hold the container at a safe place until it is determined if the detained property is liable by law to forfeiture.

(b) *Limitations.* Summary detention may not exceed 72 hours without process of law or intervention of the appro-

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priate TTB officer. The person possessing the container immediately before its detention may prepare a waiver of the 72 hours limitation to have the container kept on its premises during detention.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5311))

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985. Re-designated by T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]

LIABILITY FOR TAX

§ 22.31 Persons liable for tax.

All tax-free alcohol removed, sold, transported, or used in violation of law or regulations in this part, is subject to all provisions of law relating to taxable alcohol, including the requirement for payment of tax on the alcohol. The person removing, selling, transporting, or using tax-free alcohol in violation of law or regulations pertaining to tax-free alcohol shall be required to pay the distilled spirits tax on the alcohol.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

DESTRUCTION OF MARKS AND BRANDS

§ 22.33 Time of destruction of marks and brands.

(a) Any person who empties a package containing tax-free alcohol shall immediately destroy or obliterate the marks, brand, and labels required by this chapter to be placed on packages of tax-free alcohol.

(b) A person may not destroy or obliterate the marks, brands or labels until the package or drum has been emptied.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5206))

DOCUMENT REQUIREMENTS

§ 22.35 Execution under penalties of perjury.

(a) When any form or document prescribed by this part is required to be executed under penalties of perjury, the permittee or other authorized person shall:

(1) Insert the declaration "I declare under the penalties of perjury that I have examined this _____ (insert the type of document such as claim,